

House Study Bill 608 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOLT)

A BILL FOR

1 An Act relating to procedures to review the exercise of the
2 power of eminent domain.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 6A.1, Code 2024, is amended to read as
2 follows:

3 **6A.1 Exercise of power by state — withdrawal by general**
4 **assembly.**

5 1. Proceedings may be instituted and maintained by the
6 state of Iowa, or for the use and benefit thereof, for the
7 condemnation of such private property as may be necessary
8 for any public improvement which the general assembly has
9 authorized to be undertaken by the state, and for which an
10 available appropriation has been made. The executive council
11 shall institute and maintain such proceedings in case authority
12 to so do be not otherwise delegated.

13 2. a. At any time during a proceeding under subsection 1
14 or a proceeding attempting or contemplating an exercise of the
15 state's power under Article I, section 18, of the Constitution
16 of the State of Iowa, twenty-one or more members of the house
17 of representatives may file with the chief clerk of the house,
18 or eleven or more members of the senate may file with the
19 secretary of the senate, a petition seeking the withdrawal of
20 such a proceeding.

21 b. Upon the filing of a petition under paragraph "a",
22 the chief clerk of the house or secretary of the senate,
23 as applicable, shall notify the governmental entities and
24 parties involved in the proceeding and, following receipt of
25 such notice, all hearings, depositions, trials, or similar
26 operations of the proceeding must immediately cease until all
27 of the following occur:

28 (1) A greater than three-fifths majority of each house
29 of the general assembly vote in favor of resumption of the
30 proceeding.

31 (2) More than three-fifths of the members of each house of
32 the general assembly deliver to the chief clerk of the house
33 or secretary of the senate, as applicable, a signed affidavit
34 stating that the member, being duly sworn to uphold the
35 Constitution of the State of Iowa and the Constitution of the

1 United States, has made due independent inquiry into the facts
2 and circumstances of the proceeding, and, in the opinion of the
3 member, the proposed exercise of power of eminent domain is
4 consistent with the protections afforded property owners under
5 both the Constitution of the State of Iowa and the Constitution
6 of the United States, the proposed exercise of power of eminent
7 domain is for a constitutionally bona fide public use, and the
8 mechanism for determining the amount of compensation to be
9 provided to the owner of private property proposed to be taken
10 is reasonable and fair.

11 Sec. 2. Section 476.13, Code 2024, is amended by adding the
12 following new subsections:

13 NEW SUBSECTION. 4. *a.* Notwithstanding the Iowa
14 administrative procedure Act, chapter 17A, prior to final board
15 action, an applicant before the board under this chapter or
16 a person whose real property is subject to an eminent domain
17 taking claim arising from an application before the board may
18 petition the district court for an eminent domain declaratory
19 review.

20 *b.* The district court for Polk county shall have exclusive
21 venue for the judicial review under this subsection.

22 *c.* Relief under this subsection is limited to a declaration
23 of the parties' rights, status, and other legal matters
24 relating to the constitutional and statutory provisions
25 governing eminent domain takings.

26 *d.* The court may combine several substantially similar
27 petitions into one review or relief order at its own discretion
28 or upon the application of any party.

29 *e.* All orders or judgments under this subsection may be
30 reviewed as other judgments, orders, or decrees.

31 *f.* This subsection does not limit the authority of the board
32 to proceed with an application under consideration at the time
33 of the petition.

34 NEW SUBSECTION. 5. *a.* A person may commence a new action
35 under subsection 4 if any of the following conditions apply:

1 (1) More than eighteen months have passed after the
2 commencement of an action described in subsection 4 involving
3 the person.

4 (2) The person is an applicant before the board under this
5 chapter or the person's real property is subject to an eminent
6 domain taking claim arising from an application before the
7 board and the person determines in good faith that facts and
8 circumstances as presented in a previous proceeding under
9 subsection 4 materially differ from the facts and circumstances
10 at the time of the commencement of the new action.

11 b. Notwithstanding subsection 4, paragraph "b", the new
12 proceeding must be in a district court of a county other than
13 Polk county, and the district judge assigned to the matter
14 must be a district judge other than the judge who presided in
15 the previous action under subsection 4. The court shall make
16 all determinations of fact and law in the new action de novo,
17 giving no precedential value to determinations in the earlier
18 action.

19 EXPLANATION

20 The inclusion of this explanation does not constitute agreement with
21 the explanation's substance by the members of the general assembly.

22 This bill allows 21 or more members of the house of
23 representatives, or 11 or more members of the senate, to file
24 a petition with the chief clerk of the house or the secretary
25 of the senate, as applicable, to withdraw from an eminent
26 domain proceeding. Upon receipt of the petition and notice to
27 the involved entities and parties, all trials, depositions,
28 hearings, and similar operations of the proceeding must cease.
29 The bill authorizes resumption of the proceeding following a
30 greater than three-fifths majority vote by both houses and
31 submission of a signed affidavit from more than three-fifths
32 of the members of each house.

33 The bill allows an applicant before the Iowa utilities board
34 (IUB) under Code chapter 476 or a person whose real property
35 is subject to an eminent domain taking claim arising from an

1 application before IUB to file a petition seeking declaratory
2 review from the Polk county district court. Relief by the
3 court is limited to a declaration of the parties' rights,
4 status, and other legal matters relating to eminent domain.
5 The bill does not limit IUB's authority to proceed with an
6 application that was under consideration at the time of such
7 a petition.

8 The bill allows a person to commence a new action in a
9 district court of a county other than Polk county with a
10 different district court judge if more than 18 months have
11 passed since the commencement of a prior action or the facts
12 and circumstances presented in the prior proceeding have
13 changed. In such a proceeding, the bill requires the court to
14 review the issues without giving precedential weight to the
15 findings in the prior action.